United Nations A/HRC/32/15/Add.1

General Assembly

Distr.: General
8 June 2016

Original: English

Human Rights Council
Thirty-second session
Agenda item 6
Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Latvia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document was not edited before being sent to the United Nations translation services.

GE.16-09362(E)

1609362

Please recycle

The Government of the Republic of Latvia appreciates the interactive dialogue which took place on 26 January 2016 during the twenty-fourth session of the UN Working Group on the Universal Periodic Review (hereinafter – Review), and after additional examination provides the following views regarding the recommendations No.120.1–120.96.

Additionally examined recommendations

120.1.–120.3.; 120.5.–120.7. Currently, Latvia cannot provide a definite response regarding the implementation of these recommendations. Latvia will evaluate the possibility to ratify these instruments. Latvia will continue to cooperate with the CERD and will evaluate the possibility to recognize its competence to consider communications from individuals. Latvia will provide information regarding implementation of these recommendations in the 3rd cycle of the Review.

120.4.; 120.8.; 120.12.; 120.16.; 120.19.; 120.23. (part on OP-CAT); 120.27.; 120.31.; 120.32.; 120.66. Accepted.

120.9.–120.11.; 120.13. (part on OP-CAT) – 120.15., 120.17.-120.18. Partially accepted. Latvia will examine the possibility to accede to the OP-CAT and establish a National Preventive Mechanism.

120.13. Accepted, already implemented. The Convention is binding for Latvia since 1992. The provisions of the Criminal Law are in full compliance with the provisions of the Convention, including by ensuring that all acts of torture are considered as crimes under national criminal laws. In addition, on 3 December 2015 amendments to Article 24^1 of the Law On the Procedures for the Entry into Force and Application of the Criminal Law entered into force stipulating that torture also means activity or inaction affecting not only the consciousness or will of the victim, but also the third person, thus ensuring the compliance of the national legislation with the Convention.

120.20.–120.26. Not accepted. Latvia has acceded to all main international human rights instruments and ensures the protection of the rights of migrants. Currently the ratification of the Convention is not on the agenda of the Government.

120.28.–120.30. Partially accepted. Latvia will evaluate the possibility to accede to the ICPPED.

120.33. Not accepted. Article 91 of the Constitution stipulates that "all human beings in Latvia shall be equal before the law and the courts. Human rights shall be realised without discrimination of any kind." More detailed anti-discrimination provisions are integrated in sectoral laws, such as Labour Law, Education Law, Law On the Rights of Patients and other laws, the list of which is regularly supplemented. Punishment for violation of the prohibition of discrimination is provided for by both, the Criminal Law as well as the Administrative Violations Code, and the victim of the crime is able to protect his/her rights before the court in civil proceedings.

120.34. Partially accepted. Currently the Law On Preventive Coercive Measures and related legal acts are being drafted; likewise, legal acts are drafted to ensure the compliance of national laws with the Istanbul Convention. Similarly, amendments to legal acts are also drafted to provide a possibility to hold a person criminally liable if psychological disorders have been caused to the victim. At the same time Latvia does not plan to develop one comprehensive law for fight against violence against women.

120.35., 120.37.; 120.38. Already implemented. See response to the recommendation No.120.33.. In Latvia's opinion, the current legal framework is sufficient. In accordance

with the Latvian Constitution and other legal acts, access to employment, social security as well as equal opportunities for all people are ensured without any discrimination. The Criminal Law provides for criminal liability for discrimination due to racial, national, and ethnic belonging, if substantial harm is caused thereby, as well as for acts inciting national, ethnic, racial or religious hatred or enmity (including hate speech). Furthermore, the racist motive is considered as an aggravating circumstance. Similarly, criminal liability is established for crimes related to domestic violence.

120.36. Not accepted. Latvia considers that such assessment is to be made by the competent authorities, including courts, within the framework of a specific case, because the laws cannot envisage all possible situations.

120.39. Partially accepted. Amendments to legislation are drafted to provide a possibility to hold a person criminally liable in the case that psychological disorders have been caused to the victim as a result of a criminal offence. At the same time it should be taken into account that the criminal liability is the most severe form of legal liability, and the administrative liability is established in Latvia for violence, including for intentionally inflicting a less serious bodily injury. We would like to draw the attention to the fact that the ECHR has recognized that the administrative offence in substance and legal meaning is comparable to the criminal offence, if the substance differs only in terms of level of harm.

120.40. Accepted, already implemented. Article 150 of the Criminal Law provides for criminal liability for an act inciting hatred or enmity because of the gender, age, disability of a person or any other characteristics, if substantial harm has been caused thereby. Also the Informative Report[1] on the basis of which Article 150 of the Criminal Law was developed, states that when defining the protected groups, the prohibited grounds of discrimination established in international law, including the Charter of Fundamental Rights of the EU[2] must be taken into account. At the same time Latvia will continue educating the officials of the law enforcement authorities in the area of combating hate crimes.

120.41. Accepted.

120.42. Partially accepted. Expert discussions have taken place in Latvia on supplementing the list of aggravating circumstances as currently defined by the Criminal Law. As a result an approach was selected to include a separate crime in the Special Part of the Criminal Law, establishing criminal liability for inciting hatred or enmity due to a person's belonging to a social group. Thus, for example, if minor, moderate or serious bodily injuries are caused to the victim and at the same time it is established that the criminal acts have been committed with a purpose to cause or incite to hatred against persons on the basis of their sexual orientation, the perpetrator is to be held liable both, in accordance with the relevant Article of the Criminal Law establishing liability for causing of bodily injuries, as well as Article 150 of the Criminal Law. At the same time Latvia is ready to repeatedly assess the possibility to recognize homophobic and transphobic motivation as an aggravating circumstance.

120.43.; 120.87.; 120.88.; 120.92.–120.94. Accepted, already implemented. The legal framework in force in Latvia was improved with the entry into force on 19 January 2016 of the new Asylum Law. In accordance with this law, when receiving refugees and asylum seekers, human rights are and will further be guaranteed, at the same time the practical procedures have been provided for in more detail. The information on each asylum seeker and specific situation of a person are evaluated with due care in order to prevent any action that might endanger this person. Simultaneously the rights of the most vulnerable groups are ensured.

120.44. Accepted.

120.45. Accepted, already implemented. Processes are continued to reduce the number of stateless persons, in accordance with 1961 Convention on the reduction of statelessness, and the domestic legislation complies with the provisions of the Convention and the CRC.

120.46. Not accepted. Latvia has chosen an approach that new policies are implemented through policy planning documents, which are developed by the competent authority of the particular area. Thus improvements with respect to human rights and innovations are implemented in the specific area. In Latvia's view such an approach has proved efficient, and is the most appropriate method for ensuring human rights.

120.47. Currently, Latvia cannot provide a definite response regarding implementation of the recommendation. Latvia currently does not plan to develop a separate action plan on business and human rights, but at the same time will continue to facilitate socially responsible business community that respects and protects human rights. An evaluation of adopting a national action plan showed the need to strengthen already existing instruments that encourage similar values. Steps are taken to incorporate the UN Global Compact initiatives principles as well as strengthen the CSR[3] platform in Latvia. It aims to facilitate the exchange of expert experiences and to stimulate a consolidated position among employers in terms of CSR, provide guidelines and recommendations by evaluating best practice, as well as systematically increase responsibility and awareness of labour relations, environmental protection, human rights and other areas.

120.48.; 120.49. Accepted.

120.50. Accepted, already implemented. Educational curriculums of educational institutions are developed in accordance with international standards, and the principle of diversity in education is implemented.

120.51. Accepted.

120.52. Partially accepted. Latvia does not envisage the creation of a new system for the monitoring of the follow-up to recommendations relating to human rights. At the same time Latvia will continue to improve the inter-institutional coordination and cooperation in the area, including with regard to exchange of information on the recommendations received and evaluation of possibilities for their implementation.

120.53. Accepted.

120.54. Accepted, already implemented. Latvia has implemented the provisions of the Resolution regarding the freedom of religion and non-discrimination. The Criminal Law provides for criminal liability for incitement to religious hate or enmity, and the religious motive is recognized as an aggravating circumstance. Similarly, the Criminal Law provides for criminal liability for discrimination due to religious belonging, if substantial harm is caused thereby.

120.55.–120.58.; 120.60. Accepted.

120.59. Not accepted. Latvia honours its fallen soldiers on Lāčplēša Day, on 11 November. 16 March is not an official State remembrance day and the senior officials and members of Government do not participate in such event. Article 74[1] of the Criminal Law provides for liability for acquittal of genocide, crime against humanity, crime against peace or war crime. Latvia has consistently condemned the crimes against humanity which were committed by both totalitarian regimes and condemns the Holocaust as well as honours the memory of victims of totalitarian regimes, supports education, remembrance and research on the Holocaust. As a democratic country Latvia ensures peaceful meetings and processions as well as freedom of picketing.

120.61.; 120.64. Partially accepted. Latvia's domestic legislation guarantees access to courts and investigation of criminal offences against LGBTI and punishment of the

perpetrators. We support the need to further improve the implementation of the legislation in practice, for example, by ensuring education of officials of law enforcement authorities in order to facilitate effective investigation of crimes and ensure appropriate attitude towards victims, and the need to provide support to victims and carry out public awareness raising measures.

120.62. Accepted, already implemented. All kind of discrimination is prohibited in Latvia, including on the basis of gender identity or sexual orientation of a person. In case of a breach of rights, the legislation effective in Latvia guarantees legal protection to everyone, regardless of the sexual orientation of the person. See also response to recommendation No. 120.33.

120.63. Not accepted. The Constitution of Latvia stipulates that the State shall protect and support marriage – a union between a man and a woman. Nevertheless any person can freely establish a private union with another person in Latvia, regardless of whether it is marriage or any other type of union. There are no obstacles for persons residing together, regardless of whether they have entered into marriage or established other type of a union, to settle their material relationship through various civil transactions with other persons.

120.65. Accepted, already implemented. On 15 October 2014 amendments to the Medical Treatment Law came into force, supplementing it with Article 69[1], which includes regulation on forced restriction of patients who are admitted to a psychiatric hospital without their consent, and patients for whom medical treatment in the psychiatric hospital has been ordered as a compulsory measure of medical nature. Restriction of a patient without his or her consent may be permitted only in cases set by Article 69[1] to ensure safety of the patient as well as other persons. Cabinet Regulation[4], prescribing the procedure according to which the restriction of patients is to be performed by using restrictive means, is currently being developed. Health care of persons residing in social care institutions is provided according to the health condition of the person through ensuring the prescribed medical treatment as well as rehabilitation. In acute cases persons are admitted in a hospital. Electroconvulsive therapy is not used in the social care centres.

120.67. Partially accepted. Cabinet Regulation No.790[5] provide for social rehabilitation measures, including psychosocial assistance, to women who have suffered from violence. At the same time the increase of the number of shelters and their capacity will depend on the available funding.

120.68. Accepted, already implemented. The General Data Protection Regulation of the EU is currently in the final stage of adoption, implementing the data protection reform of the EU. After the adoption of the Regulation the national legal acts will be reviewed within two years, improving the current regulation on personal data protection.

120.69. Accepted, already implemented. Control mechanism over the State security institutions is set out in the Law On State Security Institutions. In accordance with the law, the court and prosecutor, which is considered as an independent body, control the actions of the State security institutions. In its turn, the Prosecutor General and public prosecutors specifically authorised by him or her carry out supervision over the operative investigation, intelligence and counterintelligence measures of the State security institutions and the system of protection of State secret. Similarly, the State security institutions are subject to the control of the court in cases and in accordance with the procedure set by the Law on Operative Measures.

120.70. Accepted.

120.71. Not accepted. Latvia cannot agree with the findings expressed in the recommendation regarding unlawful activities allegedly taking place in the country.

120.72.–120.74. Accepted.

120.75. Accepted, already implemented. Minorities in Latvia actively participate in social and political areas. The Government ensures involvement of representatives of minorities in the process of policy making and decision making, such as participating in the interinstitutional working groups and advisory boards, being involved in the discussion groups, forums and other activities. Participation of minorities is also promoted by regularly granting financial support for the implementation of projects of non-governmental organisations of minorities.

120.76. Accepted, already implemented. In order to facilitate the integration of Roma pupils in the educational system of Latvia, there are no separate classes for Roma pupils since the academic year 2013/2014.

120.77., 120.80.; 120.83., 120.85.; 120.96. Partially accepted. Non-citizens enjoy all economic, social and culture rights, as well as the majority of political rights, such as the right to become members of political parties. At the same time, Latvia will continue to implement measures aimed at promoting employment, facilitating the social inclusion of representatives of minorities and availability of naturalization to socially vulnerable groups. Similarly, Latvia will continue to implement an active informative campaign regarding the possibilities and conditions of naturalisation, including regularly organising informative days, publishing reference materials and organising trainings in order to prepare persons for naturalisation examinations. Latvia will continue to provide representatives of minorities and non-citizens with a possibility to improve the Latvian language skills. See also response to recommendation No. 120.75.

120.78.; 120.79.; 120.81.; 120.82.; 120.84. Accepted, already implemented. On 1 October 2013 amendments to the Citizenship Law came into force, improving and furthermore simplifying the naturalization and the citizenship acquisition process. For example, children of non-citizens and stateless persons are recognized as the citizens of Latvia concurrently with the registration of the child's birth fact on the basis of the will expressed by one of the parents. Latvia will continue to promote granting of the Latvian citizenship to children of non-citizens. In each case of refusal of naturalisation a possibility is provided to any person to appeal it in accordance with the procedure prescribed by law. Public awareness-raising on the rights to appeal the refusal of naturalisation will be continued.

120.86.; 120.89.–120.91.; 120.95. Accepted.

Notes

[1] Informative Report "Regarding legal framework with regard to responsibility for causing national or ethnic hatred, a call to eliminate national independence or destroy territorial integrity and blasphemy of national symbols" (Minutes No.33 of the Cabinet meeting of 17.06.2014, § 93).

[2] Article 21 of the Charter of Fundamental Rights of the EU (Non-discrimination) stipulates that any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.

[3] Corporate social responsibility.

[4] Cabinet Regulation "Procedure according to which the restriction of patients is to be performed by using restrictive means, and a list of those items which are prohibited to be kept in a psychiatric medical treatment institution and to receive in consignments (parcels)".

[5] Cabinet Regulation No. 790 "Procedures for Providing Social Rehabilitation Services for Adult Persons who are Victims of Violence or who have Committed Violence".